

Senate Bill No. 1462

Passed the Senate August 30, 2012

Secretary of the Senate

Passed the Assembly August 28, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 26605.6, 26605.7, and 26605.8 to the Government Code, relating to county sheriffs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, Leno. County sheriffs: release of prisoners: medical release.

Existing law requires the sheriff to receive all persons committed to jail by competent authority and authorizes a sheriff to release a prisoner from a county correctional facility for transfer to a medical care facility or residential care facility upon the advice of a physician, as specified, provided the sheriff gives specified notice to the superior court.

This bill would additionally authorize the sheriff to release a prisoner from a county correctional facility after conferring with a physician who has oversight for providing medical care at a county jail if the sheriff determines that the prisoner would not reasonably pose a threat to public safety and the prisoner, upon diagnosis by the examining physician, is deemed to have a life expectancy of 6 months or less, provided the sheriff gives specified notice to the superior court. The bill would also authorize the sheriff to request the court to grant medical probation or to resentence a prisoner to medical probation in lieu of jail time to a prisoner convicted and sentenced to a county jail, if the prisoner is physically incapacitated with a medical condition that renders the prisoner permanently unable to perform activities of basic daily living, which has resulted in the prisoner requiring 24-hour care, and if that incapacitation did not exist at the time of sentencing or if the prisoner would require acute long-term inpatient rehabilitation services. The bill would authorize the probation officer or the court to request a medical examination of the person released on medical parole at any time, and to return that person to the sheriff's custody if that person no longer qualifies for release. The bill would require a county that chooses to implement these provisions to pay the nonfederal share of a prisoner's or probationer's Medi-Cal costs, as specified. The bill would not require a county to provide medical care for a prisoner or

probationer ineligible for Medi-Cal if it determines that the prisoner or probationer can provide for his or her own medical care, as specified.

This bill would require a county board of supervisors to adopt a process to fund the nonfederal share of Medi-Cal costs, as specified, before implementing the above-referenced provisions. The bill would require the county board of supervisors to notify the State Department of Health Care Services of the process.

The people of the State of California do enact as follows:

SECTION 1. Section 26605.6 is added to the Government Code, to read:

26605.6. (a) The sheriff, or his or her designee, has the authority, after conferring with a physician who has oversight for providing medical care at a county jail, or that physician's designee, to release from a county correctional facility, a prisoner sentenced to a county jail if the sheriff determines that the prisoner would not reasonably pose a threat to public safety and the prisoner, upon diagnosis by the examining physician, is deemed to have a life expectancy of six months or less.

(b) Before the release of any prisoner pursuant to this section, the sheriff shall notify the presiding judge of the superior court of his or her intention to release the prisoner. This notification shall include:

- (1) The prisoner's name.
- (2) The offense or offenses for which the prisoner was incarcerated, if applicable, and the pending charges, if applicable.
- (3) The date of sentence, if applicable.
- (4) The physician's diagnosis of the prisoner's condition.
- (5) The physician's prognosis for the prisoner's recovery.
- (6) The prisoner's address after release.

(c) Before a prisoner's compassionate release from a county jail pursuant to this section, the sheriff, or his or her designee, shall secure a placement option for the prisoner in the community and, in consultation with the county welfare department or another applicable county agency, examine the prisoner's eligibility for federal Medicaid benefits or other medical coverage that might assist in funding the prisoner's medical treatment while in the community.

(d) (1) For any prisoner released pursuant to this section who is eligible for Medi-Cal, the county shall continue to pay the nonfederal share of the prisoner's Medi-Cal costs for the period of time that the offender would have otherwise been incarcerated.

(2) For any prisoner granted compassionate release pursuant to this section who is ineligible for Medi-Cal, the county shall consider whether the prisoner has private medical insurance or sufficient income or assets to provide for his or her own medical care. If the county determines that the prisoner can provide for his or her own medical care, the county shall not be required to provide the prisoner with medical care.

(e) This section shall not be construed as authorizing the sheriff to refuse to receive and incarcerate a defendant or sentenced individual who is not in need of immediate medical care or who has a terminal medical condition.

SEC. 2. Section 26605.7 is added to the Government Code, to read:

26605.7. (a) The sheriff, or his or her designee, after conferring with the physician who has oversight for providing medical care, or the physician's designee, may request the court to grant medical probation or to resentence a prisoner to medical probation in lieu of jail time for any prisoner sentenced to a county jail under either of the following circumstances:

(1) The prisoner is physically incapacitated with a medical condition that renders the prisoner permanently unable to perform activities of basic daily living, which has resulted in the prisoner requiring 24-hour care, if that incapacitation did not exist at the time of sentencing.

(2) The prisoner would require acute long-term inpatient rehabilitation services.

(b) Before a prisoner's release to medical probation, the sheriff, or his or her designee, shall secure a placement option for the prisoner in the community and, in consultation with the county welfare department or another applicable county agency, examine the prisoner's eligibility for federal Medicaid benefits or other medical coverage that might assist in funding the prisoner's medical treatment while in the community.

(c) During the time on probation pursuant to this section, the probation officer or court may, at any time, request a medical reexamination of the probationer by a physician who has oversight

for providing medical care to prisoners in a county jail, or the physician's designee. If the court determines, based on that medical examination, that the probationer's medical condition has improved to the extent that the probationer no longer qualifies for medical probation, the court may return the probationer to the custody of the sheriff.

(d) (1) For any probationer granted medical probation pursuant to this section who is eligible for Medi-Cal, the county shall continue to pay the nonfederal share of the probationer's Medi-Cal costs. After a probationer is released from medical probation, the county shall no longer be required to pay the nonfederal share of the Medi-Cal costs.

(2) For any probationer granted medical probation pursuant to this section who is ineligible for Medi-Cal, the county shall consider whether the probationer has private medical insurance or sufficient income or assets to provide for his or her own medical care. If the county determines that the probationer can provide for his or her own medical care, the county shall not be required to provide the probationer with medical care.

SEC. 3. Section 26605.8 is added to the Government Code, to read:

26605.8. Before implementing Sections 26605.6 and 26605.7, the county board of supervisors shall adopt a process to fund the nonfederal share of Medi-Cal costs for the period of time that a prisoner would have otherwise been incarcerated or for the period of time that a probationer is on medical probation. The county board of supervisors shall notify the State Department of Health Care Services of the process.

Approved _____, 2012

Governor